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8 **BEFORE THE**
BOARD OF REGISTERED NURSING
9 **DEPARTMENT OF CONSUMER AFFAIRS**
10 **STATE OF CALIFORNIA**

11 In the Matter of the Accusation Against:

Case No. **2010-554**

12 **IRENE NORMA RIVERA**
385 S. Gerhart Ave.
13 Los Angeles, CA 90022

ACCUSATION

14 Registered Nurse License No. 388734
Nurse Midwife Certificate No. 925
15 Nurse Midwife Furnishing No. 925

16 Respondent.

17
18 Complainant alleges:

19 **PARTIES**

20 1. Louise R. Bailey, M.Ed., RN (Complainant) brings this Accusation solely in her
21 official capacity as the Interim Executive Officer of the Board of Registered Nursing, Department
22 of Consumer Affairs (Board).

23 2. On or about August 31, 1985, the Board issued Registered Nurse License No. 388734
24 to Irene Norma Rivera (Respondent). The Registered Nurse License was in full force and effect
25 at all times relevant to the charges brought herein and will expire on September 30, 2011, unless
26 renewed.

27 3. On or about August 31, 1992, the Board issued Nurse Midwife Certificate No.
28 925 to Respondent. The Nurse Midwife Certificate was in full force and effect at all times

1 relevant to the charges brought herein and will expire on September 30, 2011, unless renewed.

2 4. On or about about September 20, 1993, the Board issued Nurse Midwife Certificate
3 No. 925 to Respondent. The Nurse Midwife Certificate was in full force and effect at all times
4 relevant to the charges brought herein and will expire on September 30, 2011, unless renewed.

5 JURISDICTION

6 3. This Accusation is brought before the Board under the authority of the following
7 laws. All section references are to the Business and Professions Code unless otherwise indicated.

8 STATUTORY PROVISIONS

9 4. Section 118, subdivision (b), provides that the suspension, expiration, surrender or
10 cancellation of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary
11 action during the period within which the license may be renewed, restored, reissued or
12 reinstated.

13 5. Section 490 provides that a board may suspend or revoke a license on the ground that
14 the licensee has been convicted of a crime substantially related to the qualifications, functions, or
15 duties of the business or profession for which the license was issued.

16 6. Section 2750 provides that the Board may discipline any licensee, including a
17 licensee holding a temporary or an inactive license, for any reason provided in Article 3
18 (commencing with section 2750) of the Nursing Practice Act.

19 7. Section 2764 provides that the expiration of a license shall not deprive the Board of
20 jurisdiction to proceed with a disciplinary proceeding against the licensee or to render a decision
21 imposing discipline on the license. Under section 2811, subdivision (b), the Board may renew an
22 expired license at any time within eight (8) years after the expiration.

23 8. Section 2761 states, in pertinent part:

24 "The board may take disciplinary action against a certified or licensed nurse or deny an
25 application for a certificate or license for any of the following:

26 "(a) Unprofessional conduct, . . .

27 "(d) Violating or attempting to violate, directly or indirectly, or assisting in or abetting the
28 violating of, or conspiring to violate any provision or term of this chapter [the Nursing Practice

1 Act] or regulations adopted pursuant to it.

2

3 "(f) Conviction of a felony or of any offense substantially related to the qualifications,
4 functions, and duties of a registered nurse, in which event the record of the conviction shall be
5 conclusive evidence thereof. . . ."

6 **REGULATORY PROVISIONS**

7 9. California Code of Regulations, title 16, section 1444 states, in pertinent part:

8 "A conviction or act shall be considered to be substantially related to the qualifications,
9 functions or duties of a registered nurse if to a substantial degree it evidences the present or
10 potential unfitness of a registered nurse to practice in a manner consistent with the public health,
11 safety, or welfare. . . ."

12 **COST RECOVERY**

13 10. Section 125.3 provides that the Board may request the administrative law judge to
14 direct a licensee found to have committed a violation or violations of the licensing act to pay a
15 sum not to exceed the reasonable costs of the investigation and enforcement of the case.

16 **FIRST CAUSE FOR DISCIPLINE**

17 **(Conviction of Substantially Related Crime)**

18 11. Respondent is subject to disciplinary action under sections 490 and 2761,
19 subdivision (f), in conjunction with California Code of Regulations, title 16, section 1444, in that
20 on or about January 5, 2007, Respondent was convicted of a crime substantially related to the
21 functions or duties of a registered nurse which to a substantial degree evidences her present or
22 potential unfitness as a registered nurse to practice in a manner consistent with the public health,
23 safety, or welfare. The circumstances of the conviction are as follows:

24 a. On or about January 5, 2007, after pleading guilty, Respondent was convicted of one
25 felony count of violating Penal Code section 245(a)(2) [assault with a firearm] in the criminal
26 proceeding entitled *The People of the State of California v. Irene Norma Rivera* (Super. Ct. Los
27 Angeles County, 2006, No. BA308884). The Court sentenced Respondent to 120 days in jail and
28 placed her on three (3) years of probation.

b. The circumstances underlying the conviction are that on or about August 31, 2006, after finding the walls outside her residence repeatedly marked with gang graffiti, Respondent confronted her neighbors with a loaded Winchester 12 gage pump action model 1300 shotgun and demanded that they discontinue marking the walls with graffiti.

SECOND CAUSE FOR DISCIPLINE

(Substantially Related Acts of Unprofessional Conduct)

12. Respondent is subject to disciplinary action under sections 2761, subdivisions (a) and (d), in that Respondent committed acts of unprofessional conduct substantially related to the functions or duties of a registered nurse which to a substantial degree evidence her present or potential unfitness as a registered nurse to practice in a manner consistent with the public health, safety, or welfare. Complainant refers to and by this reference incorporates the allegations set forth above in paragraph 11, subdivision a and b, inclusive, as though set forth fully.

PRAYER

WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Board issue a decision:

1. Revoking or suspending Registered Nurse License No. 388734, issued to Respondent;
2. Revoking or suspending Nurse Midwife Certificate No. 925 issued to Respondent;
3. Revoking or suspending Nurse Midwife Furnishing No. 925 issued to Respondent;
4. Ordering Respondent to pay the Board the reasonable costs of the investigation and enforcement of this case, pursuant to section 125.3; and
5. Taking such other and further action as deemed necessary and proper.

DATED:

4/26/10

Louise R. Bailey
LOUISE R. BAILEY, M.ED., RN
Interim Executive Officer

LOUISE R. BAILEY, M.ED., RN
Interim Executive Officer
Board of Registered Nursing
Department of Consumer Affairs
State of California
Complainant

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